

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking on the
Commission's own Motion to Consider a
Comprehensive Policy Framework for
Recycled Water.

Rulemaking No. 10-11-014
(Filed November 19, 2010)

**REPLY COMMENTS
OF THE OFFICE OF RATEPAYER ADVOCATES**

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I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules"), the Office of Ratepayer Advocates ("ORA") hereby submits these reply comments on the *Proposed Decision Adopting a Comprehensive Policy Framework and Minimum Project Criteria Requirements for Recycled Water Projects*, mailed June 26, 2014 ("PD").

In the Opening Comments of the California Water Association (CWA) on the PD, CWA recommends "modifying the PD: (1) so that the MCRs (Minimum Criteria Requirements) and the Tier 3 Template do not create a disincentive for IOUs to participate in and pursue recycled water projects and (2) to strengthen Commission policy supporting recycled water project development by the IOUs."¹ ORA asserts that the PD, as written, serves to advance and strengthen Commission policy supporting recycled water project development, creates incentives for IOUs to participate in and pursue recycled water projects, and thereby advance the State's recycled water goals.² CWA's Comments on the PD misrepresent the law and record of the case. CWA essentially

¹ *Opening Comments of California Water Association on Proposed Decision of Commissioner Florio*, July 14, 2014 (*CWA Comments*), p. 3.

² Proposed Decision at pp. 5-15.

proposes to fast-track recycled water projects without regard to the prudence of the project itself, thereby eviscerating the Commission's responsibility for ensuring the reasonableness, prudence, and safety of proposed projects. It is not necessary to go to the extremes that CWA is proposing in order to advance the State's goals for recycled water. In reality, advancing any and all recycled water projects without investigating the prudence of the project could serve to bring the State farther from its goals for GHG reductions and energy efficiency, and adversely impact the State's water goals.

The PD, as written, provides for additional flexibility and accommodations for proposed recycled water projects beyond that which currently exist for recycled or potable water projects. These accommodations serve to encourage Investor-Owned Water and Sewer Utilities (IOWSUs) to pursue recycled water projects, thereby advancing the State's recycled water goals. Additional accommodations beyond those provided in the PD are unnecessary.

II. DISCUSSION

A. The PD Creates Incentives for IOUs to Participate In and Pursue Recycled Water Projects.

1. The PD Provides an Expedited Path for Straightforward Projects that Have Minimal Rate Impacts.

The PD allows projects with a revenue requirement impact of less than 5% to be submitted via Tier 3 Advice Letter. The explicit purpose of this change to Commission policy is to provide an expedited process for straightforward recycled water projects that have minimal rate impacts. Currently, these projects must be submitted via Application or as a part of the IOWSU's General Rate Case (GRC) application.

Additionally, ORA agrees with CWA that IOUs should be allowed to seek Commission approval by Tier 2 advice letter for projects that have no impact on rates.³ However, projects that have no impact on the revenue requirement, but do have an impact on rates – such as recycled water projects that provide incentives to recycled water

³ *CWA Comments* at p. 9.

customers that are funded through an increase in potable water rates – should be precluded from seeking Commission approval by Tier 2 advice letter. Impacts to potable water customers must be fully assessed to ensure that the benefits outweigh the costs.

CWA additionally suggests modifying Ordering Paragraph 20 in a way that O&M costs would not be considered.⁴ However, as O&M costs are in fact part of the revenue requirement for IOWSUs, O&M costs should not be excluded from this 5% revenue requirement impact. Ultimately, no changes to the PD, the MCRs, or the Tier 3 Template are necessary to ensure that IOWSUs will apply for recycled water projects. These documents, as written, provide an expedited course for recycled water projects that do not already exist for recycled or potable water projects.⁵

2. The PD Already Allows the Inclusion of Indirect Benefits in the Cost-Benefit Analyses.

The MCRs allow IOWSUs to include in the cost-benefit analysis of the proposed recycled water project “consideration of all non-monetized, non-quantifiable factors (e.g., environmental, supply reliability, social benefits, etc.).”⁶ The inclusion of indirect benefits is an accommodation specific to proposed recycled water projects that serves to encourage IOWSUs to pursue these projects.⁷

3. The PD Provides Clarification for IOWSUs as to the Information Needed for the Commission to Effectively Evaluate Recycled Water Projects.

The MCRs and Tier 3 Advice Letter Template provided as Appendices to the PD provide clarification for IOWSUs as to the information necessary for the Commission to consider and effectively evaluate recycled water projects. CWA’s claim that framework in the PD makes it more difficult for IOWSUs to obtain approvals for recycled water

⁴ *Id.*

⁵ *Cf.*, Opening Comments of the Office of Ratepayer Advocates, filed July 14, 2014 (Modifications proposed by ORA provide for cost containment measures and additional protections for ratepayers).

⁶ Proposed Decision, Appendix A, p. A-3.

⁷ *Cf.*, *CWA Comments* at p. 3.

projects is incorrect.⁸ For example, in Section 5.9, the PD “adopt(s) a policy to allow recovery of recycled water project costs from both recycled and potable water service customers in the IOWSU’s service area.”⁹ This represents an additional accommodation provided for recycled water projects designed to help promote and encourage IOWSUs to undertake recycled water projects to advance the State’s goals. Compared to the process today, the PD makes it easier for IOWSUs to get the approval of the Commission for recycled water projects. CWA’s proposed changes should be rejected as they are not necessary to achieve the goals of the Commission, and they eliminate the Commission’s oversight over recycled water projects that increase rates.

B. CWA’s Additional Provisions are Unnecessary, Not Supported By the Record, and Should Not Be Considered at This Juncture.

CWA proposes that “the MCRs and Tier 3 Advice Letter Template should be instructive rather than mandatory.”¹⁰ The record in this proceeding does not support this conclusion. It is the Commission’s responsibility to ensure the reasonableness, prudence, and safety of IOWSU proposed water supply projects. For all proposed recycled water projects, and particularly for those projects with significant rate impacts, the Commission must assess the prudence of the project, including evaluating the impact to all customers, and ensure that the project benefits outweigh the costs. If the IOWSUs do not yet know the details of proposed recycled water projects, as CWA suggests in its Comments,¹¹ it will not be possible for the Commission, or for that matter the IOWSU, to know whether the project is a prudent one. Additionally, without knowing the details of the proposed project, it is not possible to know whether the project could in fact increase GHG

⁸ *CWA Comments* at p. 3.

⁹ Proposed Decision at p. 31.

¹⁰ *CWA Comments* at p. 3.

¹¹ *Id.*

emissions and energy consumption compared to other more prudent alternatives, which would bring the State farther from its goals for GHG reductions and energy efficiency.¹²

As the PD states on p. 32, “because we are adopting a policy that will allow the IOWSUs to allocate recycled water project costs to both recycled and potable water service customers, we must be able to assess all of the project costs and benefits associated with each project.” The MCRs and Tier 3 template provide the information necessary for this assessment. Adopting CWA’s recommendations to allow submittals for proposed recycled water projects that lack the information necessary for the Commission to analyze the prudence of the proposed project would expose ratepayers to unnecessary risk, waste precious Commission resources, delay the approval process, and set a dangerous precedent.

III. CONCLUSION

CWA’s recommendations regarding the PD should not be adopted. The PD as written serves to strengthen Commission policy on recycled water and advance the State’s recycled water goals. Additional accommodations for recycled water projects beyond those currently provided in the PD are 1) not necessary to encourage IOWSU’s to undertake recycled water projects and 2) not supported by the record and should not be considered by the Commission at this juncture.

Respectfully submitted,

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¹² See, *id.* at p. 5.